
HOUSE BILL No. 1768

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-10.3-7; IC 5-10.4-4.

Synopsis: Military service credit for state employees. Requires an employer of a member of the public employees' retirement fund or the teachers' retirement fund to pay the member's contributions to the fund for the period the member receives a military service credit.

Effective: July 1, 2007.

Herrell

January 26, 2007, read first time and referred to Committee on Ways and Means.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1768

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-10.3-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) A member who:

- (1) enters the United States armed services;
- (2) leaves ~~his the member's~~ contributions in the fund;
- (3) except as provided in subsection (c), resumes service with ~~his the member's~~ employer within one hundred twenty (120) days after ~~his the member's~~ unconditional discharge; and
- (4) would be entitled to service credit for military service under the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.) if the member had resumed service with the member's employer within ninety (90) days after discharge;

is entitled to service credit for the armed service.

(b) A state employee who left employment before January 1, 1946, or an employee of a political subdivision who left employment before the participation date to enter the United States armed services is entitled to service credit for the armed service if ~~he: the employee:~~

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(1) except as provided in subsection (c), resumes service with the employer within one hundred twenty (120) days after ~~his~~ **the employee's** unconditional discharge; and

(2) would be entitled to service credit for military service under the applicable requirements of federal law in effect at the time of reemployment if the employee had resumed service with the employee's employer within ninety (90) days after discharge.

(c) The board shall extend the one hundred twenty (120) day reemployment requirement contained in subsection (a)(3) or (b)(1) if the board determines that an illness, an injury, or a disability related to the member's military service prevented the member from resuming employment within one hundred twenty (120) days after the member's discharge from military service. However, the board may not extend the deadline beyond thirty (30) months after the member's discharge.

(d) If a member retires and the board subsequently determines that the member is entitled to additional service credit due to the extension of a deadline under subsection (c), the board shall recompute the member's benefit. However, the additional service credit may be used only in the computation of benefits to be paid after the date of the board's determination, and the member is not entitled to a recomputation of benefits received before the date of the board's determination.

(e) Notwithstanding any provision of this section, a member is entitled to service credit and benefits in the amount and to the extent required by the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.).

(f) In addition to the benefits provided under subsection (e), a member's contribution under section 9 of this chapter shall be paid by the member's employer to the fund for the period the member receives the military service credit provided by this section.

(f) (g) Subject to the provisions of this section, an active member may purchase not more than two (2) years of service credit for the member's service on active duty in the armed services if the member meets the following conditions:

(1) The member has at least one (1) year of credited service in the fund.

(2) The member serves on active duty in the armed services of the United States for at least six (6) months.

(3) The member receives an honorable discharge from the armed services.

(4) Before the member retires, the member makes contributions to the fund as follows:

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(A) Contributions that are equal to the product of the following:

(i) The member's salary at the time the member actually makes a contribution for the service credit.

(ii) A rate, determined by the actuary of the fund, that is based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(iii) The number of years of service credit the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary of the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

However, a member is entitled to purchase service credit under this subsection only to the extent that service credit is not granted for that time under another provision of this section. At least ten (10) years of service in Indiana is required before a member may receive a benefit based on service credits purchased under this section. A member who terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance or receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the federal Social Security Act may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the fund.

~~(g)~~ **(h)** The following apply to the purchase of service credit under subsection ~~(f)~~ **(g)**:

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

SECTION 2. IC 5-10.3-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. **(a) Except as**

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provided in subsections (b) and (c), each member shall contribute three percent (3%) of his the member's compensation to the fund as specified in IC 5-10.2-3.

(b) ~~However, for a~~ If a member who is a state employee, the employer shall pay the contribution for the member, and for a member who is not a state employee, the employer may pay all or a part of the contribution for the member.

(c) If:

(1) a member is entitled to a military service credit under section 5(a), 5(b), or 5(e) of this chapter; and

(2) the employer does not pay the member's contribution or pays only a part of the member's contribution on behalf of the member;

the employer shall contribute to the fund, on behalf of the member, the member's contribution for the period the member receives a military service credit.

SECTION 3. IC 5-10.4-4-8, AS AMENDED BY P.L.119-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) This subsection applies to a member who retires before July 1, 1980. A member who had completed four (4) years of approved college teacher education before voluntary or involuntary induction into the military services is entitled to credit for that service as if the member had begun teaching before the induction. A member who serves in military service is considered a teacher and is entitled to the benefits of the fund if before or during the leave of absence the member pays into the fund the member's contributions. Time served by a member in military service for the duration of the hostilities or for the length of active service in the hostilities and the necessary demobilization time after the hostilities is not subject to the one-seventh rule set forth in section 7 of this chapter.

(b) This subsection applies to a member who retires after June 30, 1980. A member who completed four (4) years of approved college teacher education before voluntary or involuntary induction into military service is entitled to credit for the member's active military service as if the member had begun teaching before the induction. A member who serves in military service is considered a teacher and is entitled to the benefits of the fund if the following conditions are met:

(1) The member has an honorable discharge.

(2) Except as provided in subsection (e), the member returns to active teaching service not later than eighteen (18) months after the completion of active military service.

(3) The member has at least ten (10) years of in-state service

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The time served by a member in military service for the duration of the hostilities or for the length of active service in the hostilities and the necessary demobilization time after the hostilities is not subject to the one-seventh rule set forth in section 7 of this chapter. However, not more than six (6) years of military service credit may be granted under this subsection.

(c) This subsection applies to a member who retires after May 1, 1989. A member who had begun but had not completed four (4) years of approved college teacher education before voluntary or involuntary induction into the military services is entitled to service credit in an amount equal to the duration of the member's active military service if the following conditions are met:

(1) The member has an honorable discharge.

(2) Except as provided in subsection (e), the member returns to a four (4) year approved college teacher training program not later than eighteen (18) months after the completion of active military service and subsequently completes that program.

(3) The member has at least ten (10) years of in-state service credit.

The time served by a member in active military service for the length of active service in the hostilities and the necessary demobilization is not subject to the one-seventh rule set forth in section 7 of this chapter. However, not more than six (6) years of military service credit may be granted under this subsection.

(d) This subsection applies to a member who retires after May 1, 1991, and who is employed at a state institution of higher education. A member who had begun but had not completed baccalaureate or post-baccalaureate education before voluntary or involuntary induction into military service is entitled to the member's active military service credit for the member's active military service in an amount equal to the duration of the member's military service if the following conditions are met:

(1) The member received an honorable discharge.

(2) Except as provided in subsection (e), the member returns to baccalaureate or post-baccalaureate education not later than eighteen (18) months after completion of active military service and subsequently completes that education.

(3) The member has at least ten (10) years of in-state service credit.

The time served by a member in active military service for the length of active service in the hostilities and the necessary demobilization is

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not subject to the one-seventh rule set forth in section 7 of this chapter. However, not more than six (6) years of military service credit may be granted under this subsection.

(e) The board shall extend the eighteen (18) month deadline contained in subsection (b)(2), (c)(2), or (d)(2) if the board determines that an illness, an injury, or a disability related to the member's military service prevented the member from returning to active teaching service or to a teacher education program not later than eighteen (18) months after the member's discharge from military service. However, the board may not extend the deadline beyond thirty (30) months after the member's discharge.

(f) If a member retires and the board subsequently determines that the member is entitled to additional service credit due to the extension of a deadline under subsection (e), the board shall recompute the member's benefit. However, the additional service credit may be used only in the computation of benefits to be paid after the date of the board's determination, and the member is not entitled to a recomputation of benefits received before the date of the board's determination.

(g) Notwithstanding any provision of this section, a member is entitled to military service credit and benefits in the amount and to the extent required by the federal Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.), including all later amendments.

(h) In addition to the benefits provided under subsection (g), a member's contribution under section 11 of this chapter shall be paid by the member's employer to the fund for the period the member receives the military service credit provided by this section.

~~(h)~~ (i) Subject to this section, an active member may purchase not more than two (2) years of service credit for the member's service on active duty in the armed services if the member meets the following conditions:

(1) The member has at least one (1) year of credited service in the fund.

(2) The member serves on active duty in the armed services of the United States for at least six (6) months.

(3) The member receives an honorable discharge from the armed services.

(4) Before the member retires, the member makes contributions to the fund as follows:

(A) Contributions that are equal to the product of:

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(i) the member's salary at the time the member actually makes a contribution for the service credit;

(ii) a rate, determined by the actuary of the fund, that is based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased; and

(iii) the number of years of service credit the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary of the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

However, a member is entitled to purchase service credit under this subsection only to the extent that service credit is not granted for that time under another provision of this section. At least ten (10) years of service in Indiana is required before a member may receive a benefit based on service credits purchased under this section. A member who terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance or receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the federal Social Security Act may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the fund.

~~(j)~~ **(j)** The following apply to the purchase of service credit under subsection ~~(h)~~: **(i)**:

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

~~(j)~~ **(k)** This subsection applies to a member who retires after June 30, 2006. A member may not receive credit under this section for service for which the member receives service credit under the terms of a military or another governmental retirement plan.

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SECTION 4. IC 5-10.4-4-11, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. (a) **Except as provided by subsection (c),** each member shall contribute to the fund three percent (3%) of the member's compensation as set forth in IC 5-10.2-3. However, the member's employer may pay the contribution on behalf of the member.

(b) If a member's employer elects to pay the members' contributions for its employees, the employer must initiate the payments as part of salary and fringe benefit adjustments provided to these employees.

(c) If:

(1) a member is entitled to a military service credit under section 8(b), 8(c), 8(d), or 8(g) of this chapter; and

(2) the employer does not pay the member's contribution on behalf of the member;

the employer shall contribute to the fund, on behalf of the member, the member's contribution for the period the member receives a military service credit.

SECTION 5. [EFFECTIVE JULY 1, 2007] IC 5-10.3-7-5, IC 5-10.3-7-9, IC 5-10.4-4-8, and IC 5-10.4-4-11, all as amended by this act, apply to a fund member entitled to a military service credit for a period after June 30, 2007.

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